

Section 35 Process

The court will review the facts and decide whether to issue either a summons or a warrant of apprehension. If there are reasonable grounds to believe the person subject to the petition won't appear voluntarily for a hearing, and that further delay would present an immediate physical danger to the person, a judge may issue a warrant for that person.

If summonsed, the person subject to the petition will receive an order to appear in court before a judge. If a warrant is issued, police officers will attempt to locate the person, take the person into custody, and deliver the person to the court for a commitment hearing. The warrant is valid for up to five consecutive days, excluding Saturdays, Sundays, and legal holidays, or until the person appears in court, whichever occurs first.

Once the person is at the court, they have the right to be represented by an attorney. If the court finds that the person cannot afford a lawyer, the court will immediately appoint an attorney.

At the court hearing, the court shall order an examination by a qualified physician, psychologist, or social worker. The person has a right to refuse the examination. The person's attorney may present independent expert testimony or other testimony from family, friends, employers, and others concerned.

The court will hear the testimony and evidence from the exam and other evidence that relates to the case and then decide if the person meets the criteria for commitment.

After testimony and argument, the judge will decide if there is clear and convincing evidence that:

- The person has an alcohol or substance use disorder; and
- There is a likelihood of serious harm to self or others as a result of their substance use disorder

If both criteria are met, the person will be involuntarily committed. If one (or both) criteria are not met, the person will be released. A judge should order a commitment under Section 35 only when less restrictive alternatives are unavailable.